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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into the Review
of the California High Cost Fund B Program.

R.06-06-028

REPLY COMMENTS OF

**CALAVERAS TELEPHONE COMPANY (U 1004 C)
CAL-ORE TELEPHONE CO. (U 1006 C)
DUCOR TELEPHONE COMPANY (U 1007 C)
FORESTHILL TELEPHONE CO. (U 1009 C)
GLOBAL VALLEY NETWORKS, INC. (U 1008 C)
HAPPY VALLEY TELEPHONE COMPANY (U 1010 C)
HORNITOS TELEPHONE COMPANY (U 1011 C)
KERMAN TELEPHONE CO. (U 1012 C)
PINNACLES TELEPHONE CO. (U 1013 C)
THE PONDEROSA TELEPHONE CO. (U 1014 C)
SIERRA TELEPHONE COMPANY, INC. (U 1016 C)
THE SISKIYOU TELEPHONE COMPANY (U 1017 C)
VOLCANO TELEPHONE COMPANY (U 1019 C)
WINTERHAVEN TELEPHONE COMPANY (U 1021 C)
("SMALL LECs")**

**ON ASSIGNED COMMISSIONER'S RULING
RELATED TO CALIFORNIA ADVANCED SERVICES FUND**

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October 3, 2007

1 **I. INTRODUCTION.**

2
3 Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor
4 Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Global Valley Networks,
5 Inc. (formerly Evans Telephone Company) (U 1008 C), Happy Valley Telephone Company (U
6 1010 C), Hornitos Telephone Company (U 1011 C), Kerman Telephone Co. (U 1012 C),
7 Pinnacles Telephone Co. (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone
8 Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone
9 Company (U 1019 C) and Winterhaven Telephone Company (U 1021) (collectively "Small
10 LECs") hereby submit their reply comments on the Assigned Commissioner's Ruling Related to
11 The California Advanced Services Fund ("CASF") herein dated September 12, 2007 ("ACR").

12 As the Small LECs stated in their Opening Comments on the ACR filed on September 26,
13 2007, they support the creation of a California Advanced Services Fund as was described by the
14 Commission in D. 07-09-020 and the ACR because it would be beneficial for California and its
15 economy, particularly many of its rural areas. Several of the other parties who submitted Opening
16 Comments also expressed support for the CASF, but many of them raised potentially troublesome
17 issues with the proposed CASF and suggested caution and careful consideration of the legal basis
18 for the CASF as the Commission moves forward. In the main, the Small LECs agree with many
19 of those comments although they continue to support the CASF.

20
21 **II. THE COMMENTING PARTIES AGREE THAT THE COMMISSION SHOULD**
22 **WORK WITH THE LEGISLATURE TO STRENGTHEN THE LEGAL**
23 **UNDERPINNINGS OF THE CASF.**

24 All of the parties who commented agreed that the Commission should insure that the
25 proposed CASF has strong legal underpinnings. TURN devotes all of its Opening Comments to
26 that subject. DRA states that under the present circumstances, "...it appears that only a court
27 challenge would resolve, with any degree of certainty or confidence, the legal viability of a CASF
28 program under the Commission's existing authority." (DRA Opening Comments, pp. 2 - 3). See
also Sprint Nextel Opening Comments, pp. 5 - 13; Opening Comments of T-Mobile, pp. 2 - 3;

1 Opening Comments of the California Cable and Telecommunications Association and Time
2 Warner Telecom of California, pp. 3 – 4; Opening Comments of SureWest Telephone, p. 2. While
3 AT&T does not mention working with the Legislature in its Opening Comments, it points out
4 possible legal infirmities in the proposal. (AT&T Opening Comments, pp. 3 – 5). On this issue,
5 Verizon incorporates comments to that effect previously filed on the subject. (Verizon Opening
6 Comments, p. 2). The Small LECs submit that based upon these consistent comments expressed
7 by a diverse group of parties, the Commission should work with the Legislature to strengthen the
8 legal underpinnings of the CASF.

9
10 **III. IMPORTANT DETAILS CONCERNING THE CASF SHOULD BE RESOLVED**
11 **ONLY AFTER THE BROADBAND TASK FORCE HAS RELEASED ITS REPORT**

12 Several parties raise important issues concerning the manner in which the CASF is to be
13 structured. These important details include whether it will be limited to "unserved areas" or may
14 include "underserved areas" as provided for in the ACR. They also include whether the CASF
15 should support speeds less than 3 MBPS, or above 3 MBPS as provided for in the ACR. (AT&T
16 Opening Comments, p. 10; Verizon Opening Comments, p. 10). Other issues raised include the
17 size of the CASF, a matching funds requirement and a 60 day "window" for competing
18 applications. These are, indeed, important issues. The Small LECs believe that due to their
19 importance and number, the Commission should wait for the report of the Broadband Task Force
20 before implementing the CASF. That report should materially assist the Commission in
21 developing a workable CASF.

22
23 **IV. AT&T'S APPARENT RECOMMENDATION TO EXCLUDE RATE BASE**
24 **REGULATED UTILITIES FROM THE CASF SHOULD BE REJECTED**

25 At page 9 of its Opening Comments AT&T states that "...telephone corporations whose
26 broadband deployment costs are subject to rate of return regulation should be excluded from the
27 CASF process." This statement suggests that the Small LECs should not be eligible for CASF
28 funding. If the Small LECs were to be excluded from the CASF, it could deprive citizens residing

1 in some of the most rural and hard to serve areas of the state of broadband even though they would
2 be required to provide funding to the CASF. Furthermore, a similar funding program, the Rural
3 Telecommunications Infrastructure Grant Program, provides funding for construction of
4 telecommunications infrastructure for low income, rural communities without telephone service,
5 and that program does not limit eligibility of projects based upon the manner in which a carrier is
6 regulated. Accordingly, adopting AT&T's proposal would be counterproductive and poor policy.
7

8 **V. NO NEUTRAL BOARD IS REQUIRED TO ADMINISTER THE CASF.**

9 At page 22 of its Opening Comments, Sprint Nextel recommends that a "neutral board of
10 third parties..."...to evaluate the applications and to advise the Commission on the appropriate
11 parties and areas and most efficient technologies to be selected for CASF funding." This
12 recommendation is misguided for at least two significant reasons. First, the Commission is
13 neutral, so third parties (which presumably would not all be neutral) would add nothing to the
14 process in terms of neutrality, and might inject many biases and non-neutral agendas into the
15 process. Second, the presence of third parties with disclosed or undisclosed biases and agendas
16 may create gridlock which will delay CASF funding for projects. Accordingly, this
17 recommendation should be rejected.
18

19 **VI. CONCLUSION.**

20 The Small LECs agree with the Commission that the proposed CASF would be in the
21 interest of California and many of its citizens, especially those in rural parts of the state. If the
22 Commission works with the Legislature to develop the CASF, incorporates the recommendations
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1 of the Broadband Task force as appropriate in developing the details, and imposes sensible limits
2 on its availability, size and duration, the Small LECs support its creation.

3
4 Dated this 3rd day of October, 2007, at San Francisco, California.

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1 **CERTIFICATE OF SERVICE BY MAIL**

2 I, Martin Spence, declare:

3 I am a resident of the State of California, over the age of eighteen years, and not a party to
4 the within action. My business address is COOPER, WHITE & COOPER LLP, 201 California
5 Street, 17th Floor, San Francisco, CA 94111.

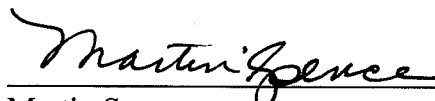
6 On October 3, 2007, I served a true copy of the:

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9 **CALAVERAS TELEPHONE COMPANY (U 1004 C)**
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23 **("SMALL LECs")**
24 **ON ASSIGNED COMMISSIONER'S RULING**
25 **RELATED TO CALIFORNIA ADVANCED SERVICES FUND**

26 by placing a true and correct copy thereof with the firm's mailing room personnel, for mailing in
27 accordance with the firm's ordinary practices, to the parties on the CPUC's service list for this
28 proceeding. A true and correct copy was also e-mailed to those parties on the attached CPUC
service list who provided an e-mail address.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 3, 2007, at San Francisco, California.

26 
27 Martin Spence

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